



BRIEFING: MAY 6-7, 2014 BOARD MEETING AGENDA ITEM #7

TO: Chairman Richard and Board Members

FROM: Thomas Fellenz, Chief Legal Counsel

DATE: May 7, 2014

RE: Consider Amendment to Financial Advisor Contract for Time Only/Direct Staff to Resolicit Financial Advisor Services

Background

Staff of the California High-Speed Rail Authority (Authority), in adherence with the policies of the Authority Board of Directors (Board), seeks Board approval to procure the services of a Financial Advisor through a Request for Proposals for Financial Advisor Services (RFP) and for a time-only amendment of the KMPG LLP contract.

Discussion

1. RFP for Financial Advisor Services

Authority staff seeks to resolicit financial advisor services to refine, identify, model and implement innovative financing alternatives. The RFP requested contract is a total amount up to \$9,000,000.00 over a term of three years, with a two-year option to renew.

This is an hourly rate plus cost reimbursement contract with a ceiling on the total contract amount. The contract award will be made to the responsible Bidder with the highest combined weighted technical and cost scores among qualifying proposals. The RFP and resulting contract will contain a 30-day termination clause and require compliance with the Authority's Small and Disadvantaged Business Enterprise Program and the applicable 30 percent participation goal for Small Businesses, inclusive of Disadvantaged Business Enterprises and Microbusinesses.

The responsibility and activities of the financial advisor will be to assist the Authority in carrying out its work of planning, building and operating a high-speed rail network as outlined in the 2014 Business Plan. Among the key responsibilities of the financial advisor in the coming years will be the identification of innovative financing opportunities, assistance in the structuring of concession and other contracts, and assisting the Authority in outreach to and interaction with private sector investors.

Included for the Board's review is a copy of the proposed RFP. The key dates of the RFP include the following:

- RFP Release/Advertise Solicitation on Bidsync/Authority's website – May 8, 2014

- Deadline for Written Questions – May 26, 2014
- Deadline to Submit Proposals by 4:00 p.m. – June 19, 2014
- Mandatory Consultant Interviews – Week of July 7-10, 2014
- Notice of Proposed Award – July 17, 2014
- Contract Start Date – Summer/Fall 2014

2. Amendment to KPMG Financial Advisor Contract

KPMG LLP (KPMG) is the current Financial Advisor for the Authority. The contract with KPMG was originally awarded on May 9, 2011 after completion of a procurement process managed directly by Authority staff and consistent with the State of California's competitive procurement process.

The original KPMG contract value was \$2.5 million for financial advisor services and project-specific work, including but not limited to, review and update of the financial plan(s) and incorporating all aspects of the present project status and financial market conditions based on the existing financial plan and models available. The contract has subsequently been amended due to refinement of the scope of work and time so that the existing contract value totals of \$8,750,000.00 million. As of April 2014, approximately \$7,256,661.54 has been expended to date. The KPMG contract expires on June 30, 2014 and a ninety (90) day amendment of time to September 30, 2014 is requested to provide continuity of services and implementation of a transition plan.

Staff recommends amending the contract with KPMG by extending the duration for 90 days through September 30, 2014 to complete the critical tasks identified below. This amendment does not include any increase in the contract's contract dollar amount and is consistent with the budget projections contained in the 2014 Business Plan. The proposed amendment would cover the following services:

- Continue existing services to ensure continuity in the following: rolling stock procurement with Amtrak; IOS implementation strategy including assisting with performing a market sounding; State funding plan and strategy, including Cap-and-Trade funding; ancillary revenue generation strategy, including market research, market sounding, legal and policy research, status reporting; assist the Authority with the final draft of 2014 Business Plan; preparing board materials as directed by the Chief Financial Officer; procurement of Construction Packages #2 and #3; continue work relating to contract oversight and review of regional contractor invoices; and providing support to Authority for disputed invoices.
- Prepare a transition plan due to the upcoming RFP process.

This transition time will allow the Authority time resolicit the RFP subsequent to approval from the Board in May 2014.

Extending the current KPMG contract will enable the Authority to retain the company's expertise and experience, maintain continuity and momentum for completing this work, and allow an effective transition for the next financial advisor selected through the procurement

process. The work being performed under this contract is time-sensitive and detailed; it would be detrimental to the Authority's interests if continuity and smooth transition was not possible due to a gap between the contracts.

This recommendation considers the following opportunities and risks: loss of consistency/continuity, stakeholder relationships, competition, potential conflicts of interest or protests, loss of institutional knowledge, and imminent disruption and delay. This qualitative risk-based assessment was performed in consultation with the Authority's Chief Deputy Director, Chief Financial Officer, Director of Risk Management and Project Controls and Legal Counsel.

Recommendations

Staff recommends that the Board:

- Approve a contract amendment with KPMG LLP to extend HSR#10-34 for contract duration for ninety (90) days through September 30, 2014.
- Direct Authority staff to proceed with the issuance of a new RFP solicitation for Financial Advisor Services.

Attachments

- Resolution # HSRA 14-11
- RFP for Financial Advisor Services